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EXAMINER

ZEWDU, MELESS NMN

ART UNIT PAPER NUMBER

2683

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/881,873	<b>Applicant(s)</b> BHOGAL ET AL.	
	<b>Examiner</b> Meless N. Zewdu	<b>Art Unit</b> 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to (Appeal Brief)***

1. This action is in response to the communication filed on 4/12/05.
2. Claims 1-32 are pending in this action.
3. Examiner regrets for missing to treat claim 32, which was added as new, in the last final Office Action. Consequently, examiner has withdrawn the finality and has reopened the case. Also, apologizes for the inconvenience this may have caused applicant.

### ***Claim Objections***

Claims 2 and 17 are objected to because of the following informalities: claims 2 and 17 recite "adding the modified call count". Since there is no more than one modified call count shown or recited, applicant needs to clearly or show the modified call counts that are to be added. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-3, 7-9, 10-18 and 22-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. (Lewis) (US 5,684,861) in view of Westerlage et al. (Westerlage) (US 6,141,404).

**As per claim 1:** Lewis discloses a method of tracking communications usage time comprising:

counting time increments in response to a call; determining a call count based on time increments (see abstract; col. 3, lines 12-29; col. 5, lines 55-67; col. 6, lines 1-19). But, Lewis does not explicitly teach about modifying the/a call count based on calling plan parameters, as claimed and argued by applicant. However, in a related field of endeavor, Westerlage teaches about call transactions (data or voice) wherein the billable communication time may reflect the actual communication time or may be a rounded, truncated, or otherwise modified value. For example, communication facilities or providers may desire to bill usage in full minute or fractional minute increments (see col. 10, lines 13-26; col. 11, lines 4-18). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lewis' reference with the teaching of Westerlage for the advantage of modifying a call time to satisfy billing constraints and desires (see col. 11, lines 13-14).

**In regard to claim 2:** Westerlage teaches a method further comprising:

adding the modified call count; and determining an accumulated call count (see col. 11, lines 4-18). According to the reference, the call time is modified as desired. Since the claimed feature does not show more than one modified value, examiner is not clear about the modified values that are to be added. For examination purpose, **incrementing** is considered as adding.

**As per claim 3:** Lewis teaches a method further comprising:

subtracting the modified call count from a time ration; and determining a remaining call time (see col. 1, lines 25-39; col. 2, lines 45-55; col. 5, line 60-col. 6, line 19). In the context of the prior art, determining a remaining time requires subtracting the used time from the total rationed time. When the references are

combined as shown above, the used time will be modified based on some parameters/rules.

**In regard to claim 7:** Lewis teaches a method wherein modifying the call count comprises: discounting a nighttime call reads on '861(see col. 1, lines 16-24; col. 5, lines 53- col. 6, line 19). Time of day includes night.

**In regard to claim 8:** Lewis teaches about a method wherein modifying the call count to comprises discounting a weekend call (see abstract; col. 5, line 53-col. 6, line 19; col. 13, lines 7-17). Time of day includes night.

**In regard to claim 9:** Lewis discloses in his system the method of providing a special usage parameter; calculating a special call count based on the special usage parameter and the modified call count (see abstract; col. 3, lines 17-29; col. 5, line 53-col. 6, line 19; col. 6, lines 22-26; col. 13, lines 11-17). A calling plan or rule, as provided in the prior art, of a user can be his/her special usage parameter.

**As per claim 10:** Lewis teaches a method wherein the special parameter comprises a long distance parameter, and the special call count comprises a long distance usage count (see abstract). Lewis asserts the system can be used with any standard and any cellular system. It is obvious a cellular systems include local and long distance services.

**As per claim 11:** Lewis teaches a method wherein the special usage parameter comprises a local distance parameter, and the special call count comprises a local distance usage count (see abstract). Lewis' system, by virtue of its applicability to any standard cellular communication system, includes a local distance service.

**As per claim 12:** Lewis teaches a method wherein the special usage parameter comprises a nighttime usage parameter, and the special call count comprises a nighttime usage count (see abstract; col. 2, lines 48-53; col. 5, line 46-col. 6, line 19; col. 10, lines 12-14; col. 13, lines 11-17).

**As per claim 13:** Lewis teaches about a method wherein the special parameter comprises a weekend usage parameter, and the special call count comprises a

weekend usage parameter (see abstract; col. 2, lines 48-53; col. 5, line 46-col. 6, line 19; col. 10, lines 12-14; col. 13, lines 11-17). Note the terms, "current time" and " and "off-peak".

**As per claim 14:** Lewis teaches about a method wherein the special usage parameter comprises a peak usage parameter, and the special call comprises a peak usage count (see abstract; col. 2, lines 48-53; col. 5, line 46-col. 6, line 19; col. 10, lines 12-14; col. 13, lines 11-17). Note the terms, "current time" and " and "off-peak".

**As per claim 15:** Lewis teaches about a method wherein the special usage parameter comprises an off-peak usage parameter, and the special call count comprises an off-peak usage count (see abstract; col. 2, lines 48-53; col. 5, line 46-col. 6, line 19; col. 10, lines 12-14; col. 13, lines 11-17). Note the terms, "current time" and " and "off-peak".

**As per claim 16:** Lewis discloses a computer (or a microprocessor) usable medium including a program for tracking communications usage time comprising: computer readable program code for counting time increments in response to a call; computer readable program code for determining a call count based on time increments (abstract; col. 3, lines 12-29; col. 5, line 55-col. 6, line 19). But, Lewis does not explicitly teach about a computer readable program code for modifying the/a call count based on calling plan parameters, as claimed and argued by applicant. However, in a related field of endeavor, Westerlage teaches about call transactions (data or voice) wherein the billable communication time may reflect the actual communication time or may be a rounded, truncated, or otherwise modified value. For example, communication facilities or providers may desire to bill usage in full minute or fractional minute increments (see col. 10, lines 13-26; col. 11, lines 4-18). Furthermore, Westerlage discloses that the call process is controlled by a coordination of a processor, a memory, programs and instructions (see col. 5, lines 43-59). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lewis'

reference with the teaching of Westerlage for the advantage of modifying a call time to satisfy billing constraints and desires (see col. 11, lines 13-14).

**As per claim 17:** the feature of claim 17 is similar to the feature of claim 2.

Hence, claim 17 is rejected on the same ground and motivation as claim 2.

**As per claim 18:** the feature of claim 18 is similar to the feature of claim 3.

Hence, claim 18 is rejected on the same ground and motivation as claim 3.

**As per claim 22:** the feature of claim 22 is similar to the feature of claim 7.

Hence, claim 22 is rejected on the same ground and motivation as claim 7.

**As per claim 23:** the feature of claim 23 is similar to the feature of claim 8.

Hence, claim 23 is rejected on the same ground and motivation as claim 8.

**As per claim 24:** the feature of claim 24 is similar to the feature of claim 9.

Hence, claim 24 is rejected on the same ground and motivation as claim 9.

**As per claim 25:** the feature of claim 25 is similar to the feature of claim 10.

Hence, claim 25 is rejected on the same ground and motivation as claim 10.

**As per claim 26:** the feature of claim 26 is similar to the feature of claim 11.

Hence, claim 26 is rejected on the same ground and motivation as claim 11.

**As per claim 27:** the feature of claim 27 is similar to the feature of claim 12.

Hence, claim 27 is rejected on the same ground and motivation as claim as claim 12.

**As per claim 28:** the feature of claim 28 is similar to the feature of claim 13.

Hence, claim 28 is rejected on the same ground and motivation as claim 13.

**As per claim 29:** the feature of claim 29 is similar o the feature of claim 24.

Hence, claim 29 is rejected on the same ground and motivation as claim 14.

**As per claim 30:** the feature of claim 30 is similar to the feature of claim 15.

Hence, claim 30 is rejected on the same ground and motivation as claim 15.

**As per claim 31:** Lewis discloses a communication usage time tracking system comprising:

means for counting time increments in response to a call reads on '861 (abstract; col. 3, lines 13-29; col. 3, line 60-col. 4, line 6; col. 5, line 53-col. 6, line 19).

means for determining a call count based on time increments (abstract; col. 3, lines 13-29; col. 3, line 60-col. 4, line 6; col. 5, line 53-col. 6, line 19). But, Lewis does not explicitly teach about a means for modifying the/a call count based on calling plan parameters, as claimed and argued by applicant. However, in a related field of endeavor, Westerlage teaches about call transactions (data or voice) wherein the billable communication time may reflect the actual communication time or may be a rounded, truncated, or otherwise modified value. For example, communication facilities or providers may desire to bill usage in full minute or fractional minute increments (see col. 11, lines 4-18). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lewis' reference with the teaching of Westerlage for the advantage of modifying a call time to satisfy billing constraints and desires (see col. 11, lines 13-14).

**As per claim 32:** the features of claim 32 are similar to the features of claim 31, except "storing the modified call count in the memory of a cellular telephone unit" which is taught by Lewis (see col. 3, lines 30-59; col. 5, line 46-col. 6, line 65).

Lewis' shows a controller/processor includes, processing, storage, etc. to determine the bill incurred by a user. It is obvious that the total time, which is the basis of bill to be charged, is part of the statistical data stored in the memory of the controller. When Lewis' reference is modified by Waterlage's reference as shown above, the total time, which is the basis for the call to be charged, would be one modified as taught by Waterlage. Regarding the similar features, claim 32 is rejected on the same ground and motivation as claim 31.

**Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and further in view of Abe et al. (Abe) (US 5, 966,509).**

**As per claim 4:** tracking communications usage time that comprises modifying call counts is provided by Lewis' and Westerlage's references as discussed above, in the rejections of claims 1, 16, 31 and 32. But, the above references do not explicitly teach about rounding a call count, as claimed by applicant.



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However, in a related field of endeavor, Abe teaches about a Network Management Device including rounding of a call count (see col. 26, lines 19-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to further modify the above references with the teaching of Abe for the advantage of providing a better call count management.

**As per claim 19:** the feature of claim 19 is similar to the feature of claim 4.

Hence, claim 19 is rejected on the same ground and motivation as claim 4.

**Claims 5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and further in view of Kraushaar et al. (Kraushaar) (US 4, 200,771).**

**As per claim 5:** the above references do not explicitly teach about a method of subtracting an initial connection time from a call count, as claimed by applicant. However, in a related field of endeavor, Kraushaar teaches about "traffic measuring device based on state transaction" wherein a call time monitor/time counter is provided to monitor current time which is either to be added to or subtracted from an accumulated total call duration (see col. 5, 3-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to further modify the above references for the advantage of providing more accuracy in counting calls (see abstract, lines 1-7).

**As per claim 20:** the feature of claim 20 is similar to the feature of claim 5.

Hence, claim 20 is rejected on the same ground and motivation as claim 5.

**Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above references and further in view of Otaka (JP 2001203828 A).**

**As per claim 6:** the above references do not explicitly teach about a method for discounting incoming calls, as part of modifying a call count, as claimed by applicant. However, in a related field of endeavor, Otaka teaches that incoming call discount can be provided as prescribed preferential call treatment (see abstract). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to further modify the above references with

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the teaching of Otaka for the advantage of providing preferential treatment to users of many incoming calls (see abstract, 'problem to be solved').

**As per claim 21:** the feature of claim 21 is similar to the feature of claim 6.

Hence, claim 21 is rejected on the same ground and motivation as claim 6.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meless N. Zewdu whose telephone number is (571) 272-7873. The examiner can normally be reached on 8:30 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Meless Zewdu



Examiner

14 June 2005.



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